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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,293	12/31/2003	Sangeeta N. Bhatia	1034123-000095	9194

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EXAMINER

TENTONI, LEO B

ART UNIT	PAPER NUMBER
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1791

NOTIFICATION DATE	DELIVERY MODE
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04/21/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

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DETAILED ACTION

Election/Restrictions

1. Claims 39-44 and 54-59 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 20 April 2007.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 30, 31, 34-36, 45, 46, 48, 49, 65 and 66 are rejected under 35 U.S.C. 102(e) as being anticipated by Weiss et al (U.S. Patent 6,143,293 A).

Weiss et al (see the entire document, in particular, col. 1, line 15 to col. 2, line 18; col. 4, line 39 to col. 5, line 8; col. 6, lines 1-51; col. 8, line 39 to col. 9, line 46) teaches a layered polymer scaffold as claimed, including a scaffold having a membrane having a surface with varying topology including at least one feature with at least one dimension of about 10 to 100 microns (see col. 8, line 39 to col. 9, line 46 of Weiss et al).

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 37, 38, 50-53 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al (U.S. Patent 6,143,293 A) as applied to claims 30, 31, 34-36, 45, 46, 48, 49, 65 and 66 above, and further in view of Ma (U.S. Patent 6,872,387 B1).

Ma (see the entire document, in particular, col. 1, lines 54-58; col. 4, lines 26-35) teaches the use of biopolymers and

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hydrogel polymers for polymer scaffolds, and such would have been obvious to one of ordinary skill in the art at the time the invention was made in Weiss et al in view of Ma principally in order to provide a scaffold of biopolymers or hydrogel polymers for cell growth.

7. Claims 60, 61 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al (U.S. Patent 6,143,293 A) as applied to claims 30, 31, 34-36, 45, 46, 48, 49, 65 and 66 above, and further in view of Masini et al (U.S. Patent Application Publication 2001/0043918 A1).

Masini et al (see the entire document, in particular, paragraphs [0027] - [0029] and [0086]) teaches a polymer scaffold including a layer which may be porous or may be a mesh, and such would have been obvious to one of ordinary skill in the art at the time the invention was made in Weiss et al in view of Masini et al principally in order to provide a desired polymer scaffold.

Response to Arguments

8. Applicant's arguments with respect to claims 30, 31, 34-38, 45, 46, 48-53, 60, 61 and 63-66 have been considered but are moot in view of the new ground(s) of rejection.

9. Regarding the newly-added limitation of a surface with varying topology including at least one feature with at least one dimension of about 10 to 100 microns, Weiss et al teaches such a feature (see col. 8, line 39 to col. 9, line 46 of Weiss et al).

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Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leo B. Tentoni/
Primary Examiner, Art Unit 1791